



**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF HAYWARD PLANNING COMMISSION  
Council Chambers  
Thursday, September 22, 2005, 7:30 p.m.  
777 B Street, Hayward, CA 94541**

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**MEETING**

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chair Thnay followed by the Pledge of Allegiance.

**ROLL CALL**

Present: COMMISSIONERS: Lavelle, Sacks, McKillop, Bogue, Peixoto, Zermeno  
CHAIRPERSON: Thnay  
Absent: COMMISSIONER: None

Staff Members Present: Camire, Conneely, Gaber, Koonze, Patenaude, Pearson, Lens

General Public Present: Approximately 55

Commissioner Lavelle indicated she would have to excuse herself from the meeting at around 9:00 p.m. due to another commitment.

**PUBLIC COMMENTS**

There were no public comments.

**PUBLIC HEARINGS**

1. Zone Change No. PL-2004-0627 & Vesting Tentative Tract Map 7583 / PL 2004-0628 – Bijan Mashaw for University Village (Applicant) / Unitrust (Owner) - Request to Change the Zoning from Single-Family Residential District to Planned Development District and Subdivide 1.3 Acres to Build 14 Homes – The Project is Located at 26528 Hayward Boulevard at the corner of Tribune Avenue

Staff report submitted by Associate Planner Pearson, dated September 22, 2005, was filed.

Associate Planner Pearson presented the staff report and indicated that the documents presented before the meeting were copies of e-mails received from residents.

Having no questions from the Commissioners, Chair Thnay opened the public hearing at 7:40 p.m.

Mr. Bijan Mashaw, project applicant, thanked the audience for its presence and Commissioners and staff for their cooperation. He mentioned that the primary objective was to offer a high quality project taking into consideration the City and the community's interests. He introduced Mr. Silveira and Ms. Akpan.

Mr. Tony Silveira concurred with the report presented by Associate Planner Pearson. He also mentioned that they were sensitive to the neighbor's concerns.

Ms. Rita Akpan spoke about the density and zoning of the project. She mentioned that parking and traffic concerns raised by the neighbors were addressed accordingly.

There was a virtual presentation of the project.

Chair Thnay announced that the majority of the speakers requested to speak on items 1 and 2.

Concerns regarding improper use of plan development zoning; lack of parking; high density; diminish property value; diminish quality of life for the neighborhood; and traffic impacts were expressed by some residents. The following residents including former and current members of the Old Highlands Homeowners Association (OHHA) Board spoke against the project: Jerry Caveglia, Fred Sims, Joy Rowan, Stephanie Delaney, Darryl Taylor, and Erwin Granados.

Mr. George Dimic, Home Avenue resident, mentioned that he would support the project subject to meeting the guidelines of the zoning ordinance; that all the utilities be underground and as part of the CC&R's; that no satellite dishes be added to the units; and that part of this development address a portion of Tribune Avenue.

Support for the project involved criteria such as: appropriate density for this area, enhancement for the neighborhood, a project receptive to the neighbors' concerns, and increase of housing inventory. The following residents including former members of the OHHA Board spoke favorably of the project: Ignacio Lucero, Robert Sakai, Okoro Sylvester, Paul Block, and Jah'mes Champan.

Mr. Dean Fisher, Call Avenue resident, indicated that he would support the project if it had a density up to seven units like the project by R.V. Esau Development.

Mr. Rob Simpson, OHHA Board of Directors member and resident adjacent to the proposed property, spoke regarding traffic on Tribune Avenue and offered a solution that the lower units of the proposed project access the property from an easement on his property to Hayward Boulevard. He stated this would alleviate the traffic on Tribune Avenue and would also serve as an emergency access point. He responded to Commissioner Peixoto's question.

Chair Thnay closed the public hearing at 8:24 p.m.

In response to Commissioner Lavelle's request for clarification regarding the purpose of planned development, Principal Planner Patenaude indicated that the purpose is to bring projects that are most appropriately designed for the setting of the area.

Responding to Commissioner Sacks' consideration of Mr. Dimic's comment, Associate Planner Pearson stated that there is a condition of approval requiring that all utilities be underground. He further added that federal laws supersede city laws regarding satellite dishes. As far as the improvement of the street and width on Tribune Avenue, Development Review Engineer Gaber responded that developers for items 1 and 2 would be required to restore the pavement adjacent to their developments and bring their side of the street in to compliance with City requirements.



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In response to Commissioner Zermeño's question regarding improvement to Tribune Avenue, Development Review Engineer Gaber said that state law only requires the City to have developers improve half of the street adjacent to the frontage of their property. In reference to the comment made by Mr. Simpson regarding easement from his property, Associate Planner Pearson indicated that the issue has been discussed, but at this point it would be difficult to determine if the slope will allow for cross access between both properties. He added that the issue was left for the developer to negotiate with the property owner.

There was clarification regarding the General Plan and the current zoning density for the proposed project and the Hillside design guidelines.

Chair Thnay concurred with the staff report in that it makes sense to limit the number of access points to Hayward Boulevard in order to lessen traffic accidents. He added that the proposed project is of high quality and did not think it would impact the market value.

Commissioner Lavelle commented favorably on the project. She also indicated that the audience was divided on this project and added that the homeowners who live in the area should be satisfied with the density. She mentioned that the opportunity to live in areas such as with the proposed project should be given to downtown condominium owners, Cal State administrators, professors, students, and others that so wish. She added that the City should have a variety of housing inventory as indicated in the General Plan Housing Element. She indicated that staff has to look at the issue of traffic and safety and police needed to enforce parking. She noted that the motion is only a recommendation to Council by the Commission.

Commissioner Lavelle moved the item. It was seconded by Commissioner Sacks.

Commissioner Sacks concurred with the comments made by Commissioner Lavelle, commended the developer for working with the neighbors, and commended staff for the work done. She read a statement submitted by Mr. Paul Martin.

Commissioner Zermeño expressed support for the project and indicated that the issue of loss of rural setting overrides issues of preservation of wildlife or loss of views. He added that the project had overall more positives than negative aspects.

Commissioner Bogue sympathized with the neighbors and the traffic concern on Tribune Avenue. He also mentioned that the impact on Tribune has started to decrease. He offered a recommendation to the motion for the developer and staff to consider re-designing the façade of four homes on Hayward Boulevard in order to lessen the repetition effect.

The recommendation was accepted by Commissioners Lavelle and Zermeño.

Commissioner Peixoto commended the developer for the proposed project and for the consideration given to Tribune Avenue by the design of the proposed homes. He also added that the audience was divided. He expressed support for the motion.

Commissioner McKillop, having been a former resident of Old Highlands, indicated the project seemed too dense, but added that a planned development is better for these areas because it intends to create a more cohesive plan. She supported the motion.

Commissioner Lavelle moved, seconded by Commissioner Sacks, and unanimously approved to recommend to City Council to adopt the Initial Study, Mitigated Negative Declaration and Mitigation Monitoring Plan prepared pursuant to the California Environmental Quality Act (CEQA) guidelines; to approve the zone change and the Preliminary Development Plan subject to the attached findings and conditions; and to approve the Vesting Tentative Tract Map application, subject to the attached findings and conditions with a recommendation for the developer and staff to consider re-designing the façade of four homes on Hayward Boulevard in order to lessen the repetition effect.

2. Site Plan Review PL -2005-0264 & Tentative Tract Map 7402 PL-2005-0263 – Ron Esau for R.V. Esau Development Company, Inc. (Applicant/Owner) - Request to Create Seven Parcels and Construct Seven Detached Single-Family Residences – The Project is Located at 2609 Hillcrest Avenue and 26220 Hayward Boulevard at Tribune Avenue

Staff report submitted by Associate Planner Camire, dated September 22, 2005, was filed.

Associate Planner Camire presented the staff report.

Having no requests for comments, Chair Thnay opened the public hearing at 9:04 p.m.

Mr. Ron Essau, owner and general contractor for the project, addressed the Commissioners highlighting that the end product of the seven-unit project involved input from the neighborhood around the proposed project, compliance with City development and design guidelines, and consistency with the existing character of the neighborhood. He concurred with Conditions of Approval #4, in that homes on lots 4, 5, and 6 shall not be repetitive in design in accordance to Hillside guidelines, will not have excessive amount of grading, and will meet other guidelines. He spoke favorably of the proposed project.

There was support by neighbors for the proposed project because it represents high quality homes and because of the applicant's consideration with neighbors in the area. The following residents spoke favorably of the project: Rob Simpson, George Dimic, Joy Rowan, and Stephanie Delaney.

Chair Thnay closed the public hearing at 9:10 p.m.

Commissioner Bogue made a motion. It was seconded by Zermeño.

Commissioner Bogue spoke favorably of the project.



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Commissioner McKillop thanked the developer for an interesting treatment of the private access road and an effective plan.

Chair Thnay mentioned that the two projects considered, medium density and low density, bring an appropriate density balance to the area. He suggested to consider ways to improve the issue of traffic.

Commissioner Zermefio spoke favorably on the existing transition in the area with condominiums across the street, single homes, and two projects near the university and small shopping centers.

Commissioner Sacks supported the motion.

Commissioner Bogue moved, seconded by Commissioner Zermefio, and approved with Commissioner Lavelle absent, to accept that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, Section 15332, Class 32 In-Fill Development; and approve the Site Plan Review and Tentative Tract Map applications, subject to the findings and conditions of approval.

3. Use Permit No. PL-2003-0269 – Kamp’s Propane, Inc. (Applicant/Owner) – Request to Construct a Propane Storage and Distribution Center with Retail Sales of Propane and Accessories – The Project is Located at 3664 Depot Road in the Industrial (I) District

Staff report submitted by Assistant Planner Koonze, dated September 22, 2005, was filed.

Assistant Planner Koonze presented the staff report. In reference to Conditions of Approval #5, regarding the eight-foot-high decorative masonry fence, Assistant Planner Koonze indicated that it was corrected to have an eight-foot-high screen fence along the perimeter of the property. He added that a condition of approval, inadvertently left out, included that a security surveillance camera be installed to the approval of Police and Fire Departments. He mentioned that Fire Marshall Montevago and Consultant Principal Chemical Engineer Hanselka were present to answer any questions. He then concluded with his report.

In response to Commissioner Peixoto, Consultant and Principal Chemical Engineer Hanselka indicated that standards for safety regarding propane storages are set by state and local entities. He added that the current design exceeds the minimum code standards and is consistent with the guidelines of the Homeland Security.

Mr. Hanselka responded to Chair Thnay’s question, indicating that the applicant is required to obtain hazardous storage permit fees, but had no knowledge of a hazardous insurance.

In response to Commissioner Zermeño, Fire Marshall Montevago indicated that the applicant originally requested four tanks, but later requested three tanks. He added that the camera surveillance system was required by the Police Department and the Home Land Security.

There was discussion about the proper storage for propane and indication that this site will have the best available technology and that tanks will be in the ground independent of each other.

In response to Commissioner Peixoto, regarding a monitoring plan by the Fire Department to regulate the proposed site, Fire Marshall Montevago indicated that the site would be inspected on a yearly basis by the Fire Department and by an independent reviewer.

Chair Thnay opened the public hearing at 9: 31 p.m.

Mr. John Kamps, project applicant, mentioned that he has been marketing propane for over fifteen years and has been looking for a place for the proposed project. He spoke favorably of the proposed project highlighting safety features guiding the operations of the project.

Chair Thnay closed the public hearing at 9:36 p.m.

Commissioner Sacks made a motion and mentioned that she was impressed with the project. It was seconded by Commissioner Bogue.

Commissioner Bogue spoke favorably of the safety features of the proposed project and commended the applicant for the access for RV's that do not disrupt the traffic.

Principal Planner Patenaude clarified that the motion should include an added condition recommending a surveillance camera and a change to Condition of Approval #5 to allow a chain-link fence in the rear of the property.

Commissioner Sacks moved, seconded by Commissioner Bogue, and approved with Commissioner Lavelle absent, to approve the negative declaration and approve the Conditional Use Permit subject to the attached findings and conditions of approval, including a condition of approval that a security surveillance camera be installed and to change Conditions of Approval # 5, regarding the eight-foot-high decorative masonry fence, to allow for an eight-foot-high chain-link fence in the rear of the property.

4. Use Permit No. PL-2005-0249 & Variance No. PL-2005-0250 – St. Michaels Investment, L. P., et al, (Applicant/Owner) – Request to Construct a Public Self-Storage Facility with a Variance to Construct a Building on a Property Line Abutting a Mobile Home Park where a 20-Foot Yard Setback is Required – The Project is Located at 28410 Hesperian Boulevard

Staff report submitted by Assistant Planner Koonze, dated September 22, 2005, was filed.

Assistant Planner Koonze presented the staff report and upon request from Commissioner Zermeño, clarified site plans A and B of the project.



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In response to Commissioner Sacks, Assistant Planner Koonze reviewed the landscaping planned for the rear of the mobile home.

Chair Thnay opened the public hearing at 9:49 p.m.

Mr. Grant, architect with Craig & Grant Architects, after introducing Mr. Boersman and Mr. Guy, mentioned that the proposed project is a more useful buffer for the area. Mr. Grant added that they have not received complaints regarding issues with vandalism, noise related to the industrial use, or issues with truck impact. He spoke favorably of another project in Concord similar to the proposed project. He commented on the three findings that would allow for a variance and showed graphic aids. In reference to the first finding, he stated that there is a special circumstance because of the relationship and the existing problems that are currently related to the mobile home park. He mentioned that a landscape strip does not do anything to mitigate noise, truck impact, odor, or vandalism. He also added that it would be a better solution for mobile home owners to have the landscaping on their side. Speaking on the second finding, he requested the same privileges of design that other safe storage facilities are granted in other cities. Lastly, he indicated that the proposed project is more expensive to build, which created an increased benefit to the neighbors.

Mr. Ed Boersma, with Cubics Construction, spoke on the issue of the setback and mentioned the support received from the neighborhood. He did not agree with the Zoning Ordinance. He presented a graphic of the proposed project. He also added that the proposed project is a softer approach and more of a buffer than otherwise would be allowed.

Mr. George Guy, mobile home manager, spoke on behalf of the residents and stated that were in favor of the proposed project because this would improve safety at the park.

Chair Thnay closed the public hearing at 10:10 p.m.

Principal Planner Patenaude responded to the comments made. In reference to the landscape strip, he added that the applicant would be responsible for maintaining it. In reference to the five-story plan presented by the applicant, Principal Planner Patenaude indicated that it was another reason to require an administrative permit in order to review the impact on the adjacent property. He indicated that the applicant's presentation did not make a compelling argument for granting a variance. He added that the project is self-serving and denies the quality of life for adjacent residents. Lastly, he recommended denial of the proposed project.

Commissioner Zermeño indicated that he lives a mile away from the proposed project and mentioned that he does not mind the appearance of the project, but he does not see a need for the 20-foot landscaped area.

Commissioner Bogue mentioned that the proposed project intends to create an effective barrier between the industrial use and Mobile Home Park and that it has no grounds to eliminate the requirement for the landscaped setback. He suggested that a decorative metal fence might be placed

on the storage unit-side or the first row of storage units and that the landscape be visible to the residents yet maintained by the storage facility.

Principal Planner Patenaude concurred with Commissioner Bogue's suggestion to install a decorative metal fence.

Commissioner McKillop mentioned concurrence with the probable solution offered by Commissioner Bogue.

Commissioner Sacks stated that the City has rules regarding distances and landscaping and noted that she cannot overcome the three items needed to approve the variance.

Commissioner Bogue asked direction from staff in order to consider asking the applicant to come back for review with a 20-foot landscaped setback, with the first single-story storage units adjacent the landscape, redesign the rest of the site, and add a tubular fence so that mobile home residents can see the landscaping.

Assistant Attorney Conneely indicated that from a perspective process it would be best to deny this application without prejudice so the applicant has the opportunity to bring back an application that meets the Planning Commission's recommendations. She added that CEQA review would have to be conducted prior to approval of the project.

Commissioner Bogue made a motion to deny the application without prejudice. It was seconded by Commissioner Zermeño.

Commissioner Zermeño added that he would feel uncomfortable creating another situation such as the one at Jack-in-the-Box on Tennyson Road, where there is a parking lot and a metal fence between the masonry wall that abuts the condominiums and space that is not being used. He indicated that this project can come back after revisions have been made with prior approval by staff.

Commissioner Sacks mentioned that there is an appeal process.

Commissioner Bogue moved, seconded by Commissioner Zermeño, and approved with Commissioner Lavelle absent, to deny the project without prejudice.

## **ADDITIONAL MATTERS**

### **5. Oral Reports on Planning and Zoning Matters**

Principal Planner Patenaude made an announcement regarding the green building architecture. He added that the topic of the green building has been added to the department's work program and the Building Official is investigating it. It will be scheduled for a work session. He added a couple of staff announcements.





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**6. Commissioners' Announcements, Referrals**

Commissioner Sacks asked for the length of time that the Fairview Area will be closed due to the Stonebrae construction. Principal Planner Patenaude indicated that he would find out. He also mentioned that there is one-way loop that goes to the Prominence neighborhood.

Chair Thnay encouraged the public to visit the free engine Google earth. He also read a quote by Gandhi.

**APPROVAL OF MINUTES**

Minutes of September 8, 2005 were approved.

**ADJOURNMENT**

Chair Thnay adjourned the meeting at 10:30 p.m.

**APPROVED:**

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Marvin Peixoto, Secretary  
Planning Commission

**ATTEST:**

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Miriam Lens  
Commission Secretary